

**United States Department of Labor  
Employees' Compensation Appeals Board**

---

**A.S., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Carthage, NC, Employer**

---

)  
)  
)  
)  
)  
)  
)  
)

**Docket No. 12-1803  
Issued: February 15, 2013**

*Appearances:*  
*Appellant, pro se*  
*Office of the Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Alternate Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On August 29, 2012 appellant filed a timely appeal from an August 16, 2012 decision of the Office of Workers' Compensation Programs (OWCP) suspending her compensation. Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUE**

The issue is whether OWCP properly suspended appellant's compensation benefits for failure to submit an EN1032 form when requested.

**FACTUAL HISTORY**

On March 1, 2012 appellant, then a 35-year-old rural carrier, filed a traumatic injury claim after her vehicle was struck from behind while delivering mail. She stopped work the

---

<sup>1</sup> 5 U.S.C. §§ 8101-8193.

same day and did not return. OWCP accepted the claim for a neck sprain and appellant received wage-loss compensation and medical benefits.

By letter dated July 2, 2012, OWCP asked appellant to complete a Form EN1032 within 30 days to provide information regarding any earnings over the reporting period. It was sent to her address of record. Appellant was advised that her benefits would be suspended pursuant to 20 C.F.R. § 10.528 if a completed EN/CA-1032 form was not received by OWCP within 30 days. No response was received.

By decision dated August 16, 2012, OWCP suspended appellant's wage-loss benefits effective August 26, 2012 finding that she did not submit a complete Form EN/CA-1032, as requested. It informed her that, when she completed the EN/CA-1032 form, her compensation would be restored retroactively from the date of suspension.<sup>2</sup>

### **LEGAL PRECEDENT**

FECA authorizes the Secretary of Labor to require a partially disabled employee to report his or her earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies.<sup>3</sup>

Under section 10.528 of OWCP's implementing federal regulations, an employee in receipt of compensation benefits must complete an affidavit as to any work or activity indicating an ability to work which the employee has performed for the prior 15 months.<sup>4</sup> If an employee who is required to file such a report fails to do so within 30 days of the date of the request, his or her right to compensation for wage loss is suspended until OWCP receives the requested report.<sup>5</sup> At that time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.<sup>6</sup>

### **ANALYSIS**

OWCP requested that appellant submit an EN1032 form with respect to any employment activity performed during the prior 15 months. It requested the information by letter dated July 2, 2012. OWCP advised her to submit the form within 30 days or her compensation could be suspended. The record establishes that appellant did not respond prior to OWCP's August 16,

---

<sup>2</sup> The Board notes that appellant submitted a completed Form EN1032 with her appeal. The Board may only review evidence that was in the record at the time OWCP issued its final decision. *See* 20 C.F.R. § 501.2(c)(1); *M.B.*, Docket No. 09-176 (issued September 23, 2009); *J.T.*, 59 ECAB 293 (2008); *G.G.*, 58 ECAB 389 (2007); *Donald R. Gervasi*, 57 ECAB 281 (2005); *Rosemary A. Kayes*, 54 ECAB 373 (2003). This decision does not preclude appellant from submitting this evidence to OWCP.

<sup>3</sup> 5 U.S.C. § 8106(c).

<sup>4</sup> 20 C.F.R. § 10.528.

<sup>5</sup> *See Lucille A. Pettaway*, 55 ECAB 228 (2004); *Demetrius Beverly*, 53 ECAB 305 (2002).

<sup>6</sup> *Supra* note 3.

2012 decision. As noted, a recipient of compensation is required to submit a report as to earnings or self-employment as required by OWCP.<sup>7</sup>

Based on the evidence of record, OWCP properly suspended appellant's compensation effective August 26, 2012 pursuant to 20 C.F.R. § 10.528.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that OWCP properly suspended appellant's compensation benefits based on her failure to timely submit a completed EN1032 form when requested.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the August 16, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 15, 2013  
Washington, DC

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board

---

<sup>7</sup> See *Robert A. Robbins*, Docket No. 05-728 (issued July 15, 2005).